

MONTANA LEGISLATIVE HISTORY

Chapter 172 19 29

Bill H _____ S 131

Original bill & history ☒ C

H. Committee on State Administration

Hearing Date(s) Feb 28 ☒ C

Mar 01 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Mar 01 ☒ C

S. Committee on State Administration

Hearing Date(s) Jan 22 ☒ C

_____ ☐ C

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_____ ☐ C

Jan 22 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 *Senate* BILL NO. 131
 2 INTRODUCED BY *Playlock*
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING
 7 SECTION 64-104, R.C.M. 1947."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 49-1-101, MCA, is amended to read:

11 "49-1-101. Right of protection from personal injury.
 12 Besides the personal rights mentioned or recognized in other
 13 statutes and subject to the qualifications and restrictions
 14 provided by law, every person has the right of protection
 15 from bodily restraint or harm, personal insult, defamation,
 16 and injury to his personal relations."

17 Section 2. Section 49-2-101, MCA, is amended to read:

18 "49-2-101. Definitions. As used in this chapter,
 19 unless the context requires otherwise, the following
 20 definitions apply:

21 (1) "Age" means number of years since birth. It does
 22 not mean level of maturity or ability to handle
 23 responsibility. These latter criteria may represent
 24 legitimate considerations as reasonable grounds for
 25 discrimination without reference to age.

1 (2) "Commission" means the commission for human rights
 2 provided for in 2-15-1706.

3 (3) "Credit" means the right granted by a creditor to
 4 a person to defer payment of a debt, to incur debt and defer
 5 its payment, or to purchase property or services and defer
 6 payment therefor, ~~including but not limited to~~ it includes
 7 without limitation the right to incur and defer debt which
 8 is secured by residential real property.

9 (4) "Credit transaction" means any invitation to apply
 10 for credit, application for credit, extension of credit, or
 11 credit sale.

12 (5) "Creditor" means a person who, regularly or as a
 13 part of his business, arranges for the extension of credit
 14 for which the payment of a financial charge or interest is
 15 required, whether in connection with loans, sale of property
 16 or services, or otherwise.

17 (6) "Educational institution" means a public or
 18 private institution and includes an academy; college;
 19 elementary or secondary school; extension course;
 20 kindergarten; nursery; school system; university; business,
 21 nursing, professional, secretarial, technical, or vocational
 22 school; or agent of an educational institution.

23 (7) "Employee" means any individual employed by an
 24 employer.

25 (8) "Employer" means an employer of one or more

persons but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide ~~accommodation~~ accommodations or services that are available on a nonmembership basis.

(9) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(10) "Financial institution" means a commercial bank, trust company, ~~mutual~~ savings bank, cooperative ~~bank~~, ~~homestead association~~, finance company, ~~mutual~~ savings and loan association, investment company, or insurance company.

(11) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(12) "Labor organization" means an organization or an agent of the ~~an~~ organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid ~~and~~ protection of employees.

(13) "Mental handicap" means any mental disability resulting in subaverage intellectual functioning or impaired social competence.

(14) "National origin" means ancestry.

(15) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated ~~employees~~ employers' associations, employers, employment agencies, or labor organizations.

(16) "Physical handicap" means a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy. It ~~shall include~~ includes without limitation any degree of paralysis; amputation; lack of physical coordination; blindness or visual impediment; deafness or hearing impediment; muteness or speech impediment; or physical reliance on a guide dog for the blind, a wheelchair, or any other remedial appliance or device.

(17) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public ~~including but not limited to~~ subject only to the conditions and limitations established by law and applicable to all persons alike. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, ~~night-club~~ nightclub, trailer park, resort, campground, ~~barber-shop~~ barbershop, beauty parlor, bathroom, ~~rest-house~~ resthouse, theater, swimming pool, skating rink,

1 golf course, cafe, ice cream parlor, transportation company,
2 or hospital, and all other public amusement and business
3 establishments, ~~subject only to the conditions and~~
4 ~~limitations established by law and applicable alike to all~~
5 persons.

6 (18) "Staff" or "commission staff" means the staff of
7 the commission for human rights."

8 Section 3. Section 49-2-202, MCA, is amended to read:

9 "49-2-202. Authority to require posted notice. The
10 commission may require any employer, employment agency,
11 labor union, educational institution, or financial
12 institution, or the owner, lessee, manager, agent, or
13 employee of any public accommodation or housing
14 accommodation subject to this chapter to post, in a
15 conspicuous place on his premises or in the accommodation, a
16 notice to be prepared or approved by the commission
17 containing relevant information that the commission ~~deems~~
18 considers necessary to explain this chapter. Any person or
19 institution subject to this section ~~refusing who refuses~~ to
20 comply with an order of the commission respecting the
21 posting of a notice is guilty of a misdemeanor, and
22 punishable by a fine of not more than \$50."

23 Section 4. Section 49-2-301, MCA, is amended to read:

24 "49-2-301. Retaliation prohibited. ~~It~~ It is an
25 unlawful discriminatory practice for a person, educational

1 institution, financial institution, or governmental entity
2 or agency to discharge, expel, blacklist, or otherwise
3 discriminate against an individual because he has opposed
4 any practices forbidden under this chapter or because he has
5 filed a complaint, testified, assisted, or participated in
6 any manner in an investigation or proceeding under this
7 chapter.

8 ~~{2} No person or institution may discharge or~~
9 ~~discriminate against any other person because he or she has~~
10 ~~made a complaint, assisted with an investigation or~~
11 ~~proceeding under this chapter or in any other manner~~
12 ~~opposed any practice made unlawful under this chapter"~~

13 Section 5. Section 49-2-302, MCA, is amended to read:

14 "49-2-302. Aiding, coercing, or attempting. It is
15 unlawful for a person, educational institution, financial
16 institution, or governmental entity or agency to aid, abet,
17 incite, compel, or coerce the doing of an act forbidden
18 under this chapter or to attempt to do so."

19 Section 6. Section 49-2-305, MCA, is amended to read:

20 "49-2-305. Discrimination in housing. (1) Except when
21 the distinction is based on reasonable grounds, it is an
22 unlawful discriminatory practice for the owner, lessee,
23 manager, or other person having the right to sell, lease, or
24 rent a housing accommodation or improved or unimproved
25 property:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, creed, religion, color, age, physical or mental handicap, or national origin;

(b) to discriminate against a person because of sex, race, creed, religion, age, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of a ~~the~~ housing accommodation or ~~improved-or-unimproved~~ property; or

(c) to make a written or oral inquiry or record of the sex, race, creed, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent a ~~the~~ housing accommodation or ~~improved or-unimproved~~ property.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in which the landlord also resides is excluded from the provisions of this section."

Section 7. Section 49-2-401, MCA, is amended to read:

"49-2-401. Procedure for claiming exemption. A person, educational institution, financial institution, or governmental entity or agency who or which seeks to be exempted from the requirements of part 3 of this chapter may petition the commission for a declaratory ruling as provided in 2-4-501 of the Montana Administrative Procedure Act. If

the commission finds that reasonable grounds for granting an exemption exist, it may issue a ruling exempting the petitioner from the particular provision. This section, however, shall be strictly construed, and the burden ~~shall~~ be ~~is~~ on the petitioner to demonstrate that an exemption should be granted."

Section 8. Section 49-2-501, MCA, is amended to read:

"49-2-501. Filing complaints. (1) A complaint may be filed by or on behalf of any person claiming to be aggrieved by any discriminatory practice prohibited by this chapter. The complaint ~~shall~~ must be in the form of a written, verified complaint stating the name and address of the person, educational institution, financial institution, or governmental entity or agency alleged to have engaged in the discriminatory practice and the particulars of the alleged discriminatory practice. The commission staff may file a complaint in like manner when a discriminatory practice comes to its attention.

(2) A complaint under this chapter must be filed with the commission within 180 days after the alleged unlawful discriminatory practice occurred or was discovered. Any complaint not filed within the time set forth herein may not be considered by the commission."

Section 9. Section 49-2-505, MCA, is amended to read:

"49-2-505. Contested case hearing. (1) If the informal

efforts to eliminate the alleged discrimination are unsuccessful, the staff shall inform the commission of the failure and the commission shall cause written notice to be served, together with a copy of the complaint, requiring the person, ~~employers---business---corporation~~ educational institution, financial institution, or governmental entity or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission.

(2) The hearing ~~shall~~ must be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, ~~employers---business---corporation---organization~~ institution, entity, or agency, charged in the complaint or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the staff, the complainant, or an attorney representing the complainant. The hearing and any subsequent proceedings under this chapter ~~except as permitted under 49-2-508~~ shall ~~must~~ be held in accordance with the Montana Administrative Procedure Act except as provided in 49-2-508.

(3) The commission may make provision provisions for defraying the expenses of ~~any~~ an indigent party in a contested case hearing held pursuant to this chapter."

Section 10. Section 49-2-506, MCA, is amended to read:

"49-2-506. Procedure upon a finding of discrimination.

(1) If the commission finds that a person, institution, entity, or agency against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, ~~it~~ the commission shall order him ~~or it~~ to refrain from engaging in the discriminatory conduct. The order may:

(a) prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found;

(b) require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against;

(c) require a report on the manner of compliance.

(2) The order may not require the payment of any punitive damages ~~as defined by the Montana Code Annotated~~.

(3) Whenever a commission order or conciliation agreement requires inspection by the commission staff for a period of time to determine if the respondent is complying with that order or agreement, the period of time ~~shall~~ may ~~not~~ be no more than 3 years."

Section 11. Section 49-2-507, MCA, is amended to read:

"49-2-507. Procedure upon failure to find discrimination. If the commission finds that a person, institution, entity, or agency against whom ~~or which~~ a complaint was filed has not engaged in the discriminatory

1 practice alleged in the complaint, it shall issue and cause
2 to be served on the complainant an order dismissing the
3 complaint."

4 Section 12. Section 49-2-601, MCA, is amended to read:

5 "49-2-601. Criminal penalty. A person, employer,
6 ~~business, organization, corporation, or agency~~ educational
7 institutions or financial institution, both ~~either~~ public
8 ~~and or private, or a governmental entity or agency~~ who or
9 which willfully engages in an unlawful discriminatory
10 practice prohibited by this chapter or willfully resists,
11 prevents, impedes, or interferes with the commission, the
12 department, or any of its authorized representatives in the
13 performance of a duty under this chapter or who or which
14 willfully violates an order of the commission or ~~willfully~~
15 violates this chapter in any other manner is guilty of a
16 misdemeanor and is punishable by a fine of not more than
17 \$500 or by imprisonment for not more than 6 months, or
18 both."

19 Section 13. Section 49-3-101, MCA, is amended to read:

20 "49-3-101. Definitions. As used in this chapter, the
21 following definitions apply:

22 (1) "State and local governmental agencies" means:

23 (a) all branches, departments, offices, boards,
24 bureaus, commissions, agencies, university units, colleges,
25 ~~or any and other instrumentality~~ instrumentalities of state

1 government; and

2 (b) counties, cities, towns, school districts, or any
3 ~~other instrumentality and other units of local government~~
4 and all instrumentalities of local government.

5 (2) "Qualifications" means such qualifications as are
6 genuinely related to competent performance of the particular
7 occupational task."

8 Section 14. Section 49-3-201, MCA, is amended to read:

9 "49-3-201. Employment of state and local government
10 personnel. (1) State and local government officials and
11 supervisory personnel shall recruit, appoint, assign, train,
12 evaluate, and promote personnel on the basis of merit and
13 qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin.

16 (2) All state and local governmental agencies shall:

17 (a) promulgate written directives to carry out this
18 policy and to guarantee equal employment opportunities at
19 all levels of state and local government;

20 (b) regularly review their personnel practices to
21 assure compliance; and

22 (c) conduct continuing orientation and training
23 programs with emphasis on human relations and fair
24 employment practices.

25 (3) The department of administration shall insure that

the entire examination process, including appraisal of qualifications, is free from bias.

(4) Appointing authorities shall exercise care to insure utilization of minority group persons."

Section 15. Section 49-3-203, MCA, is amended to read:

"49-3-203. Educational, counseling, and training programs. All education ~~educational~~, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state or ~~and~~ local ~~governmental~~ agencies or in which state or ~~and~~ local ~~governmental~~ agencies participate ~~shall~~ ~~must~~ be open to all persons, who ~~shall~~ ~~must~~ be accepted on the basis of merit and qualifications without regard to race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin. Such programs ~~shall~~ ~~must~~ be conducted to encourage the full development of the interests, aptitudes, skills, and capacities of all students and trainees, with special attention to the problems of culturally deprived, educationally handicapped, or economically disadvantaged persons. Expansion of training opportunities under these programs ~~shall~~ ~~must~~ be encouraged to involve larger numbers of participants from those segments of the labor force where ~~in which~~ the need for upgrading levels of skill is greatest."

Section 16. Section 49-3-204, MCA, is amended to read:

"49-3-204. Licensing. No state or local department ~~board~~ or ~~governmental~~ agency may grant, deny, or revoke the license or charter of a person on the grounds of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin. Each state ~~and~~ ~~or~~ local ~~governmental~~ agency shall take such appropriate action in the exercise of its licensing or regulatory power as will assure equal treatment of all persons, eliminate discrimination, and enforce compliance with the policy of this chapter."

Section 17. Section 49-3-205, MCA, is amended to read:

"49-3-205. Governmental services. (1) All services of every state ~~and~~ ~~or~~ local governmental agency ~~shall~~ ~~must~~ be performed without discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.

(2) No state or local facility may be used in the furtherance of any discriminatory practice, nor may a state or local ~~governmental~~ agency become a party to an agreement, arrangement, or plan which has the effect of sanctioning discriminatory practices.

(3) Each state ~~and~~ ~~or~~ local ~~governmental~~ agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of this chapter and shall initiate comprehensive programs to remedy any

1 defect found to exist."

2 Section 18. Section 49-3-207, MCA, is amended to read:

3 "49-3-207. Nondiscrimination provision in all public
4 contracts. Every state or local contract or subcontract for
5 construction of public buildings or for other public work or
6 for goods and ~~or~~ services shall contain a provision that all
7 hiring ~~shall~~ **must** be on the basis of merit and
8 qualifications and a provision that there may be no
9 discrimination on the basis of race, color, religion, creed,
10 political ideas, sex, age, marital status, physical or
11 mental handicap, or national origin by the persons
12 performing the contract."

13 Section 19. Section 49-3-208, MCA, is amended to read:

14 "49-3-208. Public accommodations laws. No state or
15 local ~~department, board, or governmental~~ agency ~~shall~~ **may**
16 permit any violation of the public accommodations provisions
17 of 49-2-304."

18 Section 20. Section 49-3-301, MCA, is amended to read:

19 "49-3-301. Cooperation with commission for human
20 rights. All state and local governmental agencies shall
21 cooperate with the commission for human rights in the
22 commission's enforcement and educational programs. They
23 shall comply with the commission's request ~~requests~~ for
24 information concerning practices inconsistent with the state
25 policy against discrimination and shall consider its

1 recommendations for effectuating and implementing that
2 policy. The ~~commission for human rights~~ shall continue to
3 augment its enforcement and education educational programs
4 which seek to eliminate all discrimination."

5 Section 21. Section 49-3-302, MCA, is amended to read:

6 "49-3-302. Annual reports to governor. All
7 ~~departments, agencies, commissions, and other bodies of the~~
8 ~~state government~~ governmental agencies which report to the
9 governor shall include in their annual reports to the
10 governor activities undertaken in the past year to
11 effectuate this chapter. Such reports shall cover both
12 internal activities and external relations with the public
13 or with other state agencies and shall contain other
14 information as specifically requested by the governor."

15 Section 22. Section 49-4-211, MCA, is amended to read:

16 "49-4-211. Right to use public places and
17 accommodations. (1) The blind and the visually handicapped
18 have the same right as the able-bodied to the full and free
19 use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) The blind and the visually handicapped are
22 entitled to full and equal accommodations, advantages,
23 facilities, and privileges of all common carriers,
24 ~~airplanes, motor vehicles, railroad trains, motor buses,~~
25 ~~boats, or any other public conveyances or modes of~~

~~transportation, hotels, lodging places, places of~~ as defined
~~in 69-11-101, and all public accommodations, amusements, or~~
~~resorts, and other places to which the general public is~~
~~invited accommodations, as defined in 49-2-101,~~ subject only
 to the conditions and limitations established by law and
 applicable alike to all persons."

Section 23. Section 49-4-214, MCA, is amended to read:

"49-4-214. Right to be accompanied by a guide dog. (1)
 Every totally or partially blind person ~~shall have~~ has the
 right to be accompanied by a guide dog, especially trained
 for the purpose, in any of the places ~~where the public is~~
~~invited (hotels, motels, public conveyances, public eating~~
~~places, and places of amusement)~~ mentioned in 49-4-211(2)
 without being charged extra for the guide dog. He ~~shall be~~
is liable for any damage done to the premises or facilities
 by such dog.

(2) Every totally or partially blind person who has a
 guide dog or who obtains a guide dog ~~shall be~~ is entitled to
 full and equal access to all housing accommodations as
 provided in 49-2-305 and 49-4-212. He ~~shall~~ may not be
 required to pay extra compensation for such ~~the~~ guide dog
 but ~~shall be~~ is liable for any damage done to the premises
 by such ~~a~~ the guide dog."

Section 24. Section 49-4-216, MCA, is amended to read:

"49-4-216. Duty and civil liability of pedestrian or

driver approaching blind person. (1) Any A pedestrian who is
 not ~~wholly~~ totally or partially blind or ~~any~~ a driver of a
 vehicle who approaches or comes in contact with a person
~~wholly~~ who is totally or partially blind ~~and is~~ carrying a
 cane or walking stick predominately white or metallic in
 color or white tipped with red or ~~is~~ being led by a trained
 guide dog wearing a harness and walking on either side of or
 slightly in front of ~~said~~ such blind person shall
 immediately come to a full stop and take such precautions
 before proceeding as may be necessary to avoid accident or
 injury to the ~~such blind~~ person ~~wholly or partially blind~~.

(2) Any A driver or pedestrian who fails to take such
 precautions ~~shall be~~ is liable in damages for any injury
 caused ~~such pedestrian the~~ totally or partially blind
~~person~~. A totally or partially blind pedestrian ~~who is~~ not
 carrying such a cane or using a guide dog in any of the
 places ~~accommodations, or conveyances~~ listed in 49-4-211
~~shall have~~ has all of the rights and privileges conferred by
 law upon other persons, and the failure of ~~such a totally or~~
~~partially blind~~ pedestrian to carry such a cane or to use a
 guide dog in any such ~~places, accommodations, or conveyances~~
~~shall~~ place may not be held to constitute or be evidence of
 contributory negligence."

Section 25. Repealer. Section 64-104, R.C.M. 1947, is
 repealed.

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merely clarify it does not have to be at the University and that the person authorized to sign the graduate certificates is the director of the academy.

There being no further proponents and no opponents appearing, questions by the Committee were called for.

Sen. Brown questioned Montana State's position on this Bill, to which Rep. Scully replied that there was some problem about 4 years ago when dorms were used by the Law Enforcement Academy rather than MSU students. They tried moving to Western in order to fill the dorms, but they did not have the firing range or the chemistry labs at Western that they needed for their instruction. Also, the FBI agent who taught some of the courses would have a problem with travel time to Western. To solve the dorm problem at Bozeman, they have taken a modular unit set up and land was donated by Gallatin County; there would be no substantial change from past operations.

There being no further questions, the hearing on House Bill No. 83 carried by unanimous vote.

Discussion was held on the propriety of hearing bills without the sponsor being present. It was the majority opinion that all Code Commissioner bills could be heard without the sponsor present, and Senate Bill No. 112 also this time as Sen. Graham was attending a funeral in Billings.

Sen. Ryan commented that if these were innocuous little bills, then the Committee should consider putting them on the consent calendar also.

CONSIDERATION OF SENATE BILL No. 130: Reverting back to SB 130, the Chairman directed Dave Cogley to proceed.

Mr. Cogley presented the Committee with written explanation sheet of the changes from the present law and gave an oral summary of the reason for the change. Copy of summary sheet is attached hereto for further reference. Most changes related to up-dating the law to conform to present language or because it was obsolete.

There being no further proponents and no opponents appearing, the hearing was opened for questions by the Committee.

Sen. Brown questioned the succession provision on page 7, line 6, to which Mr. Cogley responded that some of the changes were made so it does not allow the county commissioners to call a legislative session.

There being no further questions, the hearing on Senate Bill No. 130 was closed.

CONSIDERATION OF SENATE BILL No. 131: This being a Code Commissioner bill also and sponsored by Sen. Blaylock who was absent, the Chairman called on the representative of the Legislative Council to present testimony.

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Joan Mayer, attorney for the Council, advised this was an act to revise and clarify the laws relating to human rights provisions. Page 3, line 11, contained the first major change where "investment company" was added to cover all financial institutions in Montana. She then went through the provisions of the Bill, section by section, explaining the proposed changes from the present law and the reasons for the change. Most of these were because the wordage was incorrect, obsolete or a duplication. Copy of summary sheet on which all changes are listed and reviewed is attached hereto and to which reference is hereby made for further particulars.

Sen. Hafferman asked for a clarification of the term "government entities", to which Ms. Mayer responded that referred to all government departments, agencies and bureaus, and was used to make the terminology consistent. In the places where the full wordage has been left out, it refers back to the above section, so it was felt it was sufficient and to delete the full terminology and repetitive wordage saved time and confusion.

Sen. Ryan questioned the word "willfully" on page 11, line 14, which Joan explained was a typographical error. She then went on to explain the repealer sections.

Sen. Story questioned how this was tagged on to the human rights laws. Ms. Mayer stated this was an old definition in the law and something that must be determined on a case-by-case basis through judicial review.

Answering Sen. Brown's inquiry regarding the statute referring to unborn children, Ms. Mayer replied she thought it has been repealed previously and checked the code referring to this at Sec. 41-1-103.

There being no further proponents and no opponents appearing to testify, questions by the Committee were called for.

Sen. Hafferman commented that we now have sovereign immunity and now we are opening up for lawsuits by anyone and he didn't think this was the original intent. Ms. Mayer responded that there doesn't seem to be any hesitancy now as there have already been lawsuits filed.

Sen. Jergeson commented that if they wanted to change any of these bills, they should do it in another bill.

In response to Sen. Ryan's question on referring to "public work" being singular, Ms. Mayer stated that there is a saving statute which says if it referred to singular or plural, it was correct.

There being no further questions, the hearing on Senate Bill No. 131 was closed.

CONSIDERATION OF SENATE BILL No. 119: The Chairman noted that Sen. Pat Goodover, sponsor of the Bill, could not be present, but as this was a Code Commissioner bill also, the representative from the Council was called on to proceed.

Bob Pyfer, Legislative Council attorney, explained this Bill relates

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state space for free doesn't mean that they shouldn't contribute to maintenance cost. The problem is what are we doing to the Historical Museum; we are not solving their problem.

Chairman Story stated he would hold up the committee report if they took a vote on this bill today and Sen. Brown's motion failed in order to accommodate Sen. Jergeson.

Upon roll call vote on the motion of Sen. Brown to delay action, on tie vote, it failed to pass, with Senators Story, Roskie and Ryan voting "no" and Sen. Jergeson being absent at this time.

Reverting back to Sen. Ryan's motion of DO NOT PASS, upon voting, the motion carried by unanimous vote of the members present, with Sen. Jergeson being absent at this time.

The Chairman directed that the Standing Committee Report on Senate Bill No. 91 will not be reported out until Sen. Jergeson has been satisfied on the issue.

At this time, Sen. Blaylock appeared to present a letter from K. Ross Toole explaining the problems he had at the time he was involved with the Historical Society.

DISPOSITION OF SENATE BILL No. 112: This was in regard to election laws, Sen. Story reminded the Committee.

Sen. Rasmussen moved that Senate Bill No. 112 DO PASS; motion carried by majority vote, with Sen. Ryan voting "no".

DISPOSITION OF SENATE BILL No. 119: This pertained to the aeromautics laws and was a Code Commissioner bill.

Sen. Roskie moved that Senate Bill No. 119 DO PASS, and the motion passed by unanimous vote.

DISPOSITION OF SENATE BILL No. 130: This dealt with revising the military affairs laws.

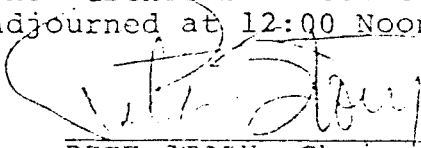
Sen. Bob Brown moved that Senate Bill No. 130 DO PASS; motion carried by unanimous vote.

DISPOSITION OF SENATE BILL No. 131: Revision of the human rights laws was the subject of this Code Commissioner Bill.

Sen. Rasmussen moved that Senate Bill No. 131 DO PASS, which motion carried by majority vote, with Senator Hafferman voting "no".

The Chairman directed that the hearing on Senate Bill No. 128 be rescheduled for January 29th.

ADJOURNMENT: There being no further business to bring before the Committee the meeting was adjourned at 12:00 Noon.



PETE STORY, Chairman

Date June 25, 1979

ROLL CALL

STATE ADMINISTRATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator George F. Roskie, V. Chmn.	✓		
Senator Bob Brown	✓		
Senator A. T. (Tom) Rasmussen	✓		
Senator Patrick L. Ryan	✓		
Senator Greg Jergeson	✓		
Senator William F. Hafferman	✓		

Each Day Attach to Minutes.

SENATE STATE ADMINISTRATION COMMITTEE

BILL SB 112, 119, 130
& 131; HB 83

VISITORS' REGISTER

DATE Jan. 22-79

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Jan. 22, 1979 SENATE Bill No. 131 Time 1:00 PM

NAME	YES	NO
Senator Pete Story, Chairman	☒	
Senator George F. Roskie, V. Chairman	☒	
Senator Bob Brown	☒	
Senator A. T. (Tom) Rasmussen	☒	
Senator Patrick L. Ryan	☒	
Senator Greg Jergeson	☒	
Senator William F. Hafferman		☒

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: _____

(include enough information on motion--put with yellow copy of committee report.)

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CHAIRMAN

ANK HAZELBAKER
VICE CHAIRMAN

CHET BLAYLOCK

FAT M. GOODOVER

DIANA S. DOWLING
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CODE COMMISSIONER

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ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
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LC 0047

1979 Legislature
Code Commissioner Bill - Summary

Sen Bill No. 131

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO
HUMAN RIGHTS.

(This summary does not include discussion of routine form
or grammatical changes.)

Section 1. 49-1-101. Right of protection from personal
injury. Added "other statutes" to clarify. Note that the
R.C.M. version read "this code", referring to the Civil Code
of 1895.

Section 2. 49-2-101. Definitions. Reworded subsection (3)
to clarify. In subsection (8) changed "accommodation" to
"accommodations" to clarify. In subsection (10) deleted
"mutual" in two places, "cooperative bank", and "homestead
association", which are undefined in Montana statutes, and
added "investment company", a major category in Montana banking
law, to correct an apparent oversight. In subsection (12)
added "and" to clarify. In subsection (15) changed "unin-
corporated employees" to "unincorporated employees' associa-
tions" to correct an apparent error. Rewrote subsection (17)
to clarify and improve sentence structure.

Section 3. 49-2-202. Authority to require posted notice.
Added "or" to correct grammar; added "or institution" to
clarify that "education institution" and "financial institution"
are included whether or not they are included in the definition
of "person".

Section 4. 49-2-301. Retaliation prohibited. In sub-
section (1) added "educational institution, financial institu-
tion, or governmental entity or agency" to clarify and for
consistency with the rest of chapter 2; deleted subsection (2)
as redundant with subsection (1).

Section 16. 49-3-204. Licensing. See second change in Section 15 (49-3-203).

Section 17. 49-3-205. Governmental services. See second change in Section 15 (49-3-203).

Section 18. 49-3-207. Nondiscrimination provision in all public contracts. Changed "and" to "or" to clarify.

Section 19. 49-3-208. Public accommodations laws. Changed "department, board, or agency" to "governmental agency" for consistent terminology. (See definition in 49-3-101(1)).

Section 20. 49-3-301. Cooperation with commission for human rights. Added "governmental" for consistent terminology (see definition in 49-3-101(1)); changed "request" to "requests" to clarify; deleted "for human rights" as redundant; and changed "education" to "educational" to correct grammar.

Section 21. 49-3-302. Annual reports to governor. Made terminology consistent with definition in 49-3-101(1).

Section 22. 49-4-211. Right to use public places and accommodations. In subsection (2) deleted redundancies and added references to the definitions of the general terms ("common carrier" and "public accommodation") to clarify.

Section 23. 49-4-214. Right to be accompanied by a guide dog. In subsection (1) clarified list of places.

Section 24. 49-4-216. Duty and civil liability of pedestrian or driver approaching blind person. In subsection (1) changed "wholly" to "totally" for consistency with subsection (2). In subsection (2) changed "such pedestrian" to "the totally or partially blind person" to clarify; deleted "accommodations, or conveyances" and "totally or partially blind" as redundant.

Section 25. Repealer. 64-104, R.C.M. 1947. Useless, inaccurate, and obsolete definition of persons of unsound mind.

STANDING COMMITTEE REPORT

January 23, 1979

MR. President

We, your committee on State Administration

having had under consideration SENATE Bill No. 131

Respectfully report as follows: That SENATE Bill No. 131

Introduced Bill,

DO PASS

identified the particular subsection of the bill to which a particular reference is made. Page 6, line 2 and line 20 have been dealt with in this way also. This makes it easier for the user to know what's being talked about. Page 7, section 6, we have stricken the reference to the line of succession to the Governorship in time of emergency. It has been superseded by a later law which gives a more general line of succession. In the old language, the County Commission of the most populated county would succeed the Governorship. In the repealer, we are striking sections 11-43-1 through 11-4304 of the RCM's.

INFORMATIONAL INSERT: 11-4301 gives definitions of "disaster", and defines "county disaster committee"

11-4302 states that aforementioned "committee" determines, by majority vote, when a disaster exists and upon such determination submits a resolution to such effect to the local governing body (bodies).

11-43-3 is relative to commission meeting being called upon determination by board of disaster

11-4304 mandates that minutes of such meeting shall include facts constituting the disaster.

Does not repeal local government's ability to levy disaster tax.

COGLEY (continued)-In the last session Chapter 335, Laws of 1977 were drafted, and we overlooked repealing these four sections which 335 superseded. There are two sections that went along with those that deal with counties levying emergency mill levies and they apply equally to both laws in that they will apply to the new statutes as well as the old. One other repealer prohibits employing members of the Communist Party or the German-American band, which was a WW II organization that fashionable during the war. The prohibition against hiring Communists is unconstitutional; and the function of helping veterans get jobs upon return from war (77-605) is now taken care of under the new organization of the Employment Security Division.

SMITH-What significance is there that the Vietnam Conflict isn't included?

COGLEY-This section hasn't been amended since before the Vietnam era. That would have been a substantive change and is not for us to make. MAGONE-Page 7, in the stricken section why did you leave the first sentence in? COGLEY-This whole section could have been repealed and we felt that it was not clear to strike the whole thing - it serves as a reference statute to get you to the substantive section.

See Attachment #4 for the Code Commissioner's summary.

SB 131-Sponsored by Senator Blaylock - I will turn this over to Joan Mayer, the Council attorney that worked on this.

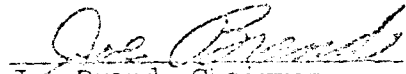
JOAN MAYER-Legislative Council Attorney -- she explained the various changes in the statute - the definition of financial institutions was revised because the old definition included institutions that Montana doesn't have, such as "cooperative bank" and "homestead association". I have added "institution" and "educational institution" in the definitions because it was unclear whether these were included in the definition of "person". Page 10, line 15 deletes "defined by the Montana Codes Annotated" because the MCA's don't define "punitive damages".

Page 11, line 14 adds another "willfully" to make the language clearer. The main thing we have tried to do is make the language consistent, as there were semantic differences and obvious inconsistencies. On page 16 we have deleted the list of common carriers and referenced the section that deals exclusively with common carriers. The definition of public accommodations has been referenced also rather than the list that the original law showed. The repealer deletes a section that contained useless, inaccurate and obsolete definitions of persons "of unsound mind" - we repealed it because of its inaccuracies and because we didn't really know how to recodify it.

McBRIDE-Are credit unions considered financial institutions? MAYER-I'm not sure; there's a definition of banks in one title. PORTER-Investment companies cover credit unions. You cannot ask questions such as race, age, or sex before you grant the loan but you are required to get this information after the loan is granted. See Attachment #5 for the Code Commissioner's summary.

The hearing was closed, and due to the absence of Chairman Brand, no executive action was taken.

Adjourned: 8:45 a.m.


Joe Brand, Chairman


Nita Sierke, Secretary

March 1, 1979

McBride and Johnston voting NO.

SB 171-SALES moved to amend it by striking all "office" places and inserting "facilities".

O'CONNELL-I would move to leave this with Stan to come up with the correct wording
Motion carried.

SB 403-Brand discussed the proposed amendments.

STAIGMILLER moved that 403 BE CONCURRED IN as written, which passed with Brand, Porter, McBride and Magone voting NO.

SB 119-JOHNSTON moved BE CONCURRED IN, which carried unanimously.

SB 130-FEDA moved BE CONCURRED IN, which carried unanimously.

SB 131-FEDA moved NOT BE CONCURRED IN, then withdrew his motion.

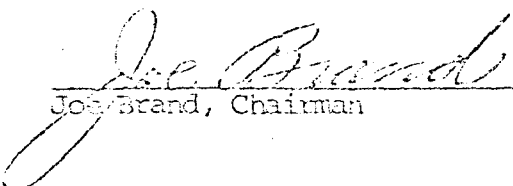
JOHNSTON moved NO BE CONCURRED IN.

BAETH made a substitute motion of BE CONCURRED IN, which carried with Johnston, Smith and Staigmilller voting NO.

SB 90-BENNETT moved BE CONCURRED IN, which carried unanimously.

SB 112-FEDA moved BE CONCURRED IN, which carried unanimously.

Adjourned: 10:05 a.m.



Joe Brand, Chairman



Nita Sierke, Secretary

SENATE BILL NO. 131

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING SECTION 64-104, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-1-101, MCA, is amended to read:

"49-1-101. Right of protection from personal injury.

Besides the personal rights mentioned or recognized in ~~other statutes~~ and subject to the qualifications and restrictions provided by law, every person has the right of protection from bodily restraint or harm, personal insult, defamation, and injury to his personal relations."

Section 2. Section 49-2-101, MCA, is amended to read:

"49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in 2-15-1706.

(3) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor, ~~including-but-not-limited-to It includes~~ without limitation the right to incur and defer debt which is secured by residential real property.

(4) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(5) "Creditor" means a person who, regularly or as a part of his business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(6) "Educational institution" means a public or private institution and includes an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business, nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

(7) "Employee" means any individual employed by an employer.

(8) "Employer" means an employer of one or more

persons but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide ~~accommodation~~ accommodations or services that are available on a nonmembership basis.

(9) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(10) "Financial institution" means a commercial bank, trust company, ~~mutual~~ savings bank, cooperative--bank, ~~homestead-association,~~ finance company, ~~mutual~~ savings and loan association, ~~investment company,~~ or insurance company.

(11) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(12) "Labor organization" means an organization or an agent of the ~~an~~ organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid ~~and~~ protection of employees.

(13) "Mental handicap" means any mental disability resulting in subaverage intellectual functioning or impaired social competence.

(14) "National origin" means ancestry.

(15) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated ~~employees~~ ~~employees'~~ associations, employers, employment agencies, or labor organizations.

(16) "Physical handicap" means a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy. It ~~shall include~~ includes without limitation any degree of paralysis; amputation; lack of physical coordination; blindness or visual impediment; deafness or hearing impediment; muteness or speech impediment; or physical reliance on a guide dog for the blind, a wheelchair, or any other remedial appliance or device.

(17) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public, ~~including but not limited to subject only to the conditions and limitations established by law and applicable to all persons alike. It includes without limitation a~~ public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, ~~night-club~~ ~~nightclub~~, trailer park, resort, campground, ~~barber-shop~~ ~~barbershop~~, beauty parlor, bathroom, ~~rest--house~~ ~~resthouse~~, theater, swimming pool, skating rink,

1 golf course, cafe, ice cream parlor, transportation company,
2 or hospital, and all other public amusement and business
3 establishments, ~~---subject---only---to---the---conditions---and~~
4 ~~limitations-established-by-law-and-applicable-like---to---all~~
5 persons.

6 (18) "Staff" or "commission staff" means the staff of
7 the commission for human rights."

8 Section 3. Section 49-2-202, MCA, is amended to read:
9 "49-2-202. Authority to require posted notice. The
10 commission may require any employer, employment agency,
11 labor union, educational institution, or financial
12 institution, or the owner, lessee, manager, agent, or
13 employee of any public accommodation or housing
14 accommodation subject to this chapter to post, in a
15 conspicuous place on his premises or in the accommodation, a
16 notice to be prepared or approved by the commission
17 containing relevant information that the commission deems
18 ~~considers~~ necessary to explain this chapter. Any person or
19 ~~institution~~ subject to this section ~~refusing who refuses~~ to
20 comply with an order of the commission respecting the
21 posting of a notice is guilty of a misdemeanor and
22 punishable by a fine of not more than \$50."

23 Section 4. Section 49-2-301, MCA, is amended to read:
24 "49-2-301. Retaliation prohibited. (1) It is an
25 unlawful discriminatory practice for a person, educational

1 institution, financial institution, or governmental entity
2 or agency to discharge, expel, blacklist, or otherwise
3 discriminate against an individual because he has opposed
4 any practices forbidden under this chapter or because he has
5 filed a complaint, testified, assisted, or participated in
6 any manner in an investigation or proceeding under this
7 chapter.

8 ~~(2) No person or institution may discharge or~~
9 ~~discriminate against any other person because he or she has~~
10 ~~made a complaint, assisted with an investigation, or~~
11 ~~proceeding under this chapter, or in any other manner~~
12 ~~opposed any practice made unlawful under this chapter."~~

13 Section 5. Section 49-2-302, MCA, is amended to read:
14 "49-2-302. Aiding, coercing, or attempting. It is
15 unlawful for a person, educational institution, financial
16 institution, or governmental entity or agency to aid, abet,
17 incite, compel, or coerce the doing of an act forbidden
18 under this chapter or to attempt to do so."

19 Section 6. Section 49-2-305, MCA, is amended to read:
20 "49-2-305. Discrimination in housing. (1) Except when
21 the distinction is based on reasonable grounds, it is an
22 unlawful discriminatory practice for the owner, lessee,
23 manager, or other person having the right to sell, lease, or
24 rent a housing accommodation or improved or unimproved
25 property:

1 (a) to refuse to sell, lease, or rent the housing
2 accommodation or property to a person because of sex, race,
3 creed, religion, color, age, physical or mental handicap, or
4 national origin;

5 (b) to discriminate against a person because of sex,
6 race, creed, religion, age, physical or mental handicap,
7 color, or national origin in a term, condition, or privilege
8 relating to the use, sale, lease, or rental of a ~~the~~ housing
9 accommodation or ~~improved-or-unimproved~~ property; or

10 (c) to make a written or oral inquiry or record of the
11 sex, race, creed, religion, age, physical or mental
12 handicap, color, or national origin of a person seeking to
13 buy, lease, or rent a ~~the~~ housing accommodation or ~~improved~~
14 ~~or-unimproved~~ property.

15 (2) A private residence designed for single-family
16 occupancy in which sleeping space is rented to guests and in
17 which the landlord also resides is excluded from the
18 provisions of this section."

19 Section 7. Section 49-2-401, MCA, is amended to read:

20 "49-2-401. Procedure for claiming exemption. A person,
21 ~~educational institution, financial institution, or~~
22 ~~governmental entity or agency~~ who ~~or which~~ seeks to be
23 exempted from the requirements of part 3 of this chapter may
24 petition the commission for a declaratory ruling as provided
25 in 2-4-501 of the Montana Administrative Procedure Act. If

1 the commission finds that reasonable grounds for granting an
2 exemption exist, it may issue a ruling exempting the
3 petitioner from the particular provision. This section,
4 however, shall be strictly construed, and the burden ~~shall~~
5 ~~be is~~ on the petitioner to demonstrate that an exemption
6 should be granted."

7 Section 8. Section 49-2-501, MCA, is amended to read:

8 "49-2-501. Filing complaints. (1) A complaint may be
9 filed by or on behalf of any person claiming to be aggrieved
10 by any discriminatory practice prohibited by this chapter.
11 The complaint ~~shall~~ ~~must~~ be in the form of a written,
12 verified complaint stating the name and address of the
13 person, ~~educational institution, financial institution, or~~
14 ~~governmental entity or agency~~ alleged to have engaged in the
15 discriminatory practice and the particulars of the alleged
16 discriminatory practice. The commission staff may file a
17 complaint in like manner when a discriminatory practice
18 comes to its attention.

19 (2) A complaint under this chapter must be filed with
20 the commission within 180 days after the alleged unlawful
21 discriminatory practice occurred or was discovered. Any
22 complaint not filed within the time set forth herein may not
23 be considered by the commission."

24 Section 9. Section 49-2-505, MCA, is amended to read:

25 "49-2-505. Contested case hearing. (1) If the informal

efforts to eliminate the alleged discrimination are unsuccessful, the staff shall inform the commission of the failure and the commission shall cause written notice to be served, together with a copy of the complaint, requiring the person, ~~employers---business---corporation~~ educational institution, financial institution, or governmental entity or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission.

(2) The hearing ~~shall~~ must be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, ~~employers-business-corporation-organization~~ institution, entity, or agency charged in the complaint or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the staff, the complainant, or an attorney representing the complainant. The hearing and any subsequent proceedings under this chapter, ~~except as permitted under 49-2-508, shall~~ must be held in accordance with the Montana Administrative Procedure Act ~~except as provided in 49-2-508.~~

(3) The commission may make ~~provision~~ provisions for defraying the expenses of any ~~an~~ indigent party in a contested case hearing held pursuant to this chapter."

Section 10. Section 49-2-506, MCA, is amended to read:

"49-2-506. Procedure upon a finding of discrimination.

(1) If the commission finds that a person, ~~institution, entity, or agency~~ against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, ~~it the~~ the commission shall order him ~~or it~~ to refrain from engaging in the discriminatory conduct. The order may:

(a) prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found;

(b) require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against;

(c) require a report on the manner of compliance.

(2) The order may not require the payment of any punitive damages ~~as defined by the Montana Code Annotated.~~

(3) Whenever a commission order or conciliation agreement requires inspection by the commission staff for a period of time to determine if the respondent is complying with that order or agreement, the period of time ~~shall~~ may ~~not~~ be no more than 3 years."

Section 11. Section 49-2-507, MCA, is amended to read:

"49-2-507. Procedure upon failure to find discrimination. If the commission finds that a person, ~~institution, entity, or agency~~ against whom ~~or which~~ a complaint was filed has not engaged in the discriminatory

1 practice alleged in the complaint, it shall issue and cause
2 to be served on the complainant an order dismissing the
3 complaint."

4 Section 12. Section 49-2-601, MCA, is amended to read:

5 "49-2-601. Criminal penalty. A person, employer,
6 business, organization, corporation, or agency, educational
7 institution, or financial institution, both either public
8 and or private, or a governmental entity or agency who or
9 which willfully engages in an unlawful discriminatory
10 practice prohibited by this chapter or willfully resists,
11 prevents, impedes, or interferes with the commission, the
12 department, or any of its authorized representatives in the
13 performance of a duty under this chapter or who or which
14 willfully violates an order of the commission or willfully
15 violates this chapter in any other manner is guilty of a
16 misdemeanor and is punishable by a fine of not more than
17 \$500 or by imprisonment for not more than 6 months, or
18 both."

19 Section 13. Section 49-3-101, MCA, is amended to read:

20 "49-3-101. Definitions. As used in this chapter, the
21 following definitions apply:

22 (1) "State and local governmental agencies" means:

23 (a) all branches, departments, offices, boards,
24 bureaus, commissions, agencies, university units, colleges,
25 or any and other instrumentality instrumentalities of state

1 government; and

2 (b) counties, cities, towns, school districts, or any
3 other instrumentality and other units of local government
4 and all instrumentalities of local government.

5 (2) "Qualifications" means such qualifications as are
6 genuinely related to competent performance of the particular
7 occupational task."

8 Section 14. Section 49-3-201, MCA, is amended to read:

9 "49-3-201. Employment of state and local government
10 personnel. (1) State and local government officials and
11 supervisory personnel shall recruit, appoint, assign, train,
12 evaluate, and promote personnel on the basis of merit and
13 qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin.

16 (2) All state and local governmental agencies shall:

17 (a) promulgate written directives to carry out this
18 policy and to guarantee equal employment opportunities at
19 all levels of state and local government;

20 (b) regularly review their personnel practices to
21 assure compliance; and

22 (c) conduct continuing orientation and training
23 programs with emphasis on human relations and fair
24 employment practices.

25 (3) The department of administration shall insure that

1 the entire examination process, including appraisal of
2 qualifications, is free from bias.

3 (4) Appointing authorities shall exercise care to
4 insure utilization of minority group persons."

5 Section 15. Section 49-3-203, MCA, is amended to read:

6 "49-3-203. Educational, counseling, and training
7 programs. All ~~education~~ educational, counseling, and
8 vocational guidance programs and all apprenticeship and
9 on-the-job training programs of state or ~~and~~ local
10 ~~governmental~~ agencies or in which state or ~~and~~ local
11 ~~governmental~~ agencies participate ~~shall~~ must be open to all
12 persons, who ~~shall~~ must be accepted on the basis of merit
13 and qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin. Such programs ~~shall~~
16 must be conducted to encourage the full development of the
17 interests, aptitudes, skills, and capacities of all students
18 and trainees, with special attention to the problems of
19 culturally deprived, educationally handicapped, or
20 economically disadvantaged persons. Expansion of training
21 opportunities under these programs ~~shall~~ must be encouraged
22 to involve larger numbers of participants from those
23 segments of the labor force ~~where in which~~ the need for
24 upgrading levels of skill is greatest."

25 Section 16. Section 49-3-204, MCA, is amended to read:

1 "49-3-204. Licensing. No state or local department
2 ~~board~~ ~~or~~ governmental agency may grant, deny, or revoke the
3 license or charter of a person on the grounds of race,
4 color, religion, creed, political ideas, sex, age, marital
5 status, physical or mental handicap, or national origin.
6 Each state ~~and or~~ local governmental agency shall take such
7 appropriate action in the exercise of its licensing or
8 regulatory power as will assure equal treatment of all
9 persons, eliminate discrimination, and enforce compliance
10 with the policy of this chapter."

11 Section 17. Section 49-3-205, MCA, is amended to read:

12 "49-3-205. Governmental services. (1) All services of
13 every state ~~and or~~ local governmental agency ~~shall~~ must be
14 performed without discrimination based upon race, color,
15 religion, creed, political ideas, sex, age, marital status,
16 physical or mental handicap, or national origin.

17 (2) No state or local facility may be used in the
18 furtherance of any discriminatory practice, nor may a state
19 or local governmental agency become a party to an agreement,
20 arrangement, or plan which has the effect of sanctioning
21 discriminatory practices.

22 (3) Each state ~~and or~~ local governmental agency shall
23 analyze all of its operations to ascertain possible
24 instances of noncompliance with the policy of this chapter
25 and shall initiate comprehensive programs to remedy any

1 defect found to exist."

2 Section 18. Section 49-3-207, MCA, is amended to read:

3 "49-3-207. Nondiscrimination provision in all public
4 contracts. Every state or local contract or subcontract for
5 construction of public buildings or for other public work or
6 for goods ~~and or~~ services shall contain a provision that all
7 hiring ~~shall~~ ~~must~~ be on the basis of merit and
8 qualifications and a provision that there may be no
9 discrimination on the basis of race, color, religion, creed,
10 political ideas, sex, age, marital status, physical or
11 mental handicap, or national origin by the persons
12 performing the contract."

13 Section 19. Section 49-3-208, MCA, is amended to read:

14 "49-3-208. Public accommodations laws. No state or
15 local ~~department, board, or governmental~~ agency ~~shall~~ ~~may~~
16 permit any violation of the public accommodations provisions
17 of 49-2-304."

18 Section 20. Section 49-3-301, MCA, is amended to read:

19 "49-3-301. Cooperation with commission for human
20 rights. All state and local ~~governmental~~ agencies shall
21 cooperate with the commission for human rights in the
22 commission's enforcement and educational programs. They
23 shall comply with the commission's ~~request~~ ~~requests~~ for
24 information concerning practices inconsistent with the state
25 policy against discrimination and shall consider its

1 recommendations for effectuating and implementing that
2 policy. The ~~commission for human rights~~ shall continue to
3 augment its enforcement and ~~education~~ ~~educational~~ programs
4 which seek to eliminate all discrimination."

5 Section 21. Section 49-3-302, MCA, is amended to read:

6 "49-3-302. Annual reports to governor. All
7 ~~departments, agencies, commissions, and other bodies of the~~
8 ~~state government~~ ~~governmental~~ agencies which report to the
9 governor shall include in their annual reports to the
10 governor activities undertaken in the past year to
11 effectuate this chapter. Such reports shall cover both
12 internal activities and external relations with the public
13 or with other state agencies and shall contain other
14 information as specifically requested by the governor."

15 Section 22. Section 49-4-211, MCA, is amended to read:

16 "49-4-211. Right to use public places and
17 accommodations. (1) The blind and the visually handicapped
18 have the same right as the able-bodied to the full and free
19 use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) The blind and the visually handicapped are
22 entitled to full and equal accommodations, advantages,
23 facilities, and privileges of all common carriers,
24 ~~airplanes, motor vehicles, railroad, trains, motor buses,~~
25 ~~boats, or any other public conveyances or modes of~~

1 ~~transportation; hotels; lodging places; places of as defined~~
 2 ~~in 49-11-101, and all public accommodation; amusement; or~~
 3 ~~resort; and other places to which the general public is~~
 4 ~~invited accommodations, as defined in 49-2-101, subject only~~
 5 to the conditions and limitations established by law and
 6 applicable alike to all persons."

7 Section 23. Section 49-4-214, MCA, is amended to read:

8 "49-4-214. Right to be accompanied by a guide dog. (1)
 9 Every totally or partially blind person ~~shall have~~ has the
 10 right to be accompanied by a guide dog, especially trained
 11 for the purpose, in any of the places ~~where the public is~~
 12 ~~invited (hotels; motels; public conveyances; public eating~~
 13 ~~places; and places of amusement) mentioned in 49-4-211(2)~~
 14 without being charged extra for the guide dog. He ~~shall be~~
 15 is liable for any damage done to the premises or facilities
 16 by such dog.

17 (2) Every totally or partially blind person who has a
 18 guide dog or who obtains a guide dog ~~shall be~~ is entitled to
 19 full and equal access to all housing accommodations as
 20 provided in 49-2-305 and 49-4-212. He ~~shall~~ may not be
 21 required to pay extra compensation for ~~such the~~ guide dog
 22 but ~~shall be~~ is liable for any damage done to the premises
 23 by ~~such a the~~ guide dog."

24 Section 24. Section 49-4-216, MCA, is amended to read:

25 "49-4-216. Duty and civil liability of pedestrian or

1 driver approaching blind person. (1) Any A pedestrian who is
 2 not ~~wholly~~ totally or partially blind or ~~any~~ a driver of a
 3 vehicle who approaches or comes in contact with a person
 4 ~~wholly~~ who is totally or partially blind ~~and is~~ carrying a
 5 cane or walking stick predominately white or metallic in
 6 color or white tipped with red or ~~is~~ being led by a trained
 7 guide dog wearing a harness and walking on either side of or
 8 slightly in front of ~~said~~ such blind person shall
 9 immediately come to a full stop and take such precautions
 10 before proceeding as may be necessary to avoid accident or
 11 injury to the ~~such blind~~ person ~~wholly or partially blind~~.

12 (2) Any A driver or pedestrian who fails to take such
 13 precautions ~~shall be~~ is liable in damages for any injury
 14 caused ~~such pedestrian the~~ totally or partially blind
 15 person. A totally or partially blind pedestrian ~~who is~~ not
 16 carrying such a cane or using a guide dog in any of the
 17 ~~places; accommodations; or conveyances~~ listed in 49-4-211
 18 ~~shall have~~ has all of the rights and privileges conferred by
 19 law upon other persons, and the failure of ~~such a totally or~~
 20 ~~partially blind~~ pedestrian to carry such a cane or to use a
 21 guide dog in any such ~~places; accommodations; or conveyances~~
 22 ~~shall place~~ may not be held to constitute or be evidence of
 23 contributory negligence."

24 Section 25. Repealer. Section 64-104, R.C.M. 1947, is
 25 repealed.

SENATE BILL NO. 131

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING SECTION 64-104, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-1-101, MCA, is amended to read:

"49-1-101. Right of protection from personal injury. Besides the personal rights mentioned or recognized in ~~other statutes~~ and subject to the qualifications and restrictions provided by law, every person has the right of protection from bodily restraint or harm, personal insult, defamation, and injury to his personal relations."

Section 2. Section 49-2-101, MCA, is amended to read:

"49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in 2-15-1706.

(3) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor, ~~including-but-not-limited-to~~ It includes ~~without limitation~~ the right to incur and defer debt which is secured by residential real property.

(4) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(5) "Creditor" means a person who, regularly or as a part of his business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(6) "Educational institution" means a public or private institution and includes an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business, nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

(7) "Employee" means any individual employed by an employer.

(8) "Employer" means an employer of one or more

persons but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodation accommodations or services that are available on a nonmembership basis.

(9) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(10) "Financial institution" means a commercial bank, trust company, ~~mutual~~ savings bank, ~~cooperative--bank~~, ~~homestead-association~~, finance company, ~~mutual~~ savings and loan association, ~~investment company~~, or insurance company.

(11) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(12) "Labor organization" means an organization or an agent of the ~~an~~ organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid and protection of employees.

(13) "Mental handicap" means any mental disability resulting in subaverage intellectual functioning or impaired social competence.

(14) "National origin" means ancestry.

(15) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated ~~employees~~ ~~employees'~~ associations, employers, employment agencies, or labor organizations.

(16) "Physical handicap" means a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy. ~~It shall include~~ includes without limitation any degree of paralysis; amputation; lack of physical coordination; blindness or visual impediment; deafness or hearing impediment; muteness or speech impediment; or physical reliance on a guide dog for the blind, a wheelchair, or any other remedial appliance or device.

(17) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public, ~~including--but--not--limited--to~~ subject only to the conditions and limitations established by law and applicable to all persons alike. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, ~~night-club~~ nightclub, trailer park, resort, campground, ~~barber-shop~~ barbershop, beauty parlor, bathroom, ~~rest--house~~ resthouse, theater, swimming pool, skating rink,

1 golf course, cafe, ice cream parlor, transportation company,
2 or hospital, and all other public amusement and business
3 establishments, ~~subject only to the conditions and~~
4 ~~limitations established by law and applicable alike to all~~
5 ~~persons.~~

6 (13) "Staff" or "commission staff" means the staff of
7 the commission for human rights."

8 Section 3. Section 49-2-202, MCA, is amended to read:

9 "49-2-202. Authority to require posted notice. The
10 commission may require any employer, employment agency,
11 labor union, educational institution, or financial
12 institution, or the owner, lessee, manager, agent, or
13 employee of any public accommodation or housing
14 accommodation subject to this chapter to post, in a
15 conspicuous place on his premises or in the accommodation, a
16 notice to be prepared or approved by the commission
17 containing relevant information that the commission ~~deems~~
18 ~~considers~~ necessary to explain this chapter. Any person or
19 institution subject to this section ~~refusing who refuses~~ to
20 comply with an order of the commission respecting the
21 posting of a notice is guilty of a misdemeanor and
22 punishable by a fine of not more than \$50."

23 Section 4. Section 49-2-301, MCA, is amended to read:

24 "49-2-301. Petaliation prohibited. ~~It~~ It is an
25 unlawful discriminatory practice for a person, educational

1 institution, financial institution, or governmental entity
2 or agency to discharge, expel, blacklist, or otherwise
3 discriminate against an individual because he has opposed
4 any practices forbidden under this chapter or because he has
5 filed a complaint, testified, assisted, or participated in
6 any manner in an investigation or proceeding under this
7 chapter.

8 ~~(2) No person or institution may discharge or~~
9 ~~discriminate against any other person because he or she has~~
10 ~~made a complaint, assisted with an investigation or~~
11 ~~proceeding under this chapter, or in any other manner~~
12 ~~opposed any practice made unlawful under this chapter."~~

13 Section 5. Section 49-2-302, MCA, is amended to read:

14 "49-2-302. Aiding, coercing, or attempting. It is
15 unlawful for a person, educational institution, financial
16 institution, or governmental entity or agency to aid, abet,
17 incite, compel, or coerce the doing of an act forbidden
18 under this chapter or to attempt to do so."

19 Section 6. Section 49-2-305, MCA, is amended to read:

20 "49-2-305. Discrimination in housing. (1) Except when
21 the distinction is based on reasonable grounds, it is an
22 unlawful discriminatory practice for the owner, lessee,
23 manager, or other person having the right to sell, lease, or
24 rent a housing accommodation or improved or unimproved
25 property:

1 (a) to refuse to sell, lease, or rent the housing
2 accommodation or property to a person because of sex, race,
3 creed, religion, color, age, physical or mental handicap, or
4 national origin;

5 (b) to discriminate against a person because of sex,
6 race, creed, religion, age, physical or mental handicap,
7 color, or national origin in a term, condition, or privilege
8 relating to the use, sale, lease, or rental of a ~~the~~ housing
9 accommodation or ~~improved-or-unimproved~~ property; or

10 (c) to make a written or oral inquiry or record of the
11 sex, race, creed, religion, age, physical or mental
12 handicap, color, or national origin of a person seeking to
13 buy, lease, or rent a ~~the~~ housing accommodation or ~~improved~~
14 ~~or-unimproved~~ property.

15 (2) A private residence designed for single-family
16 occupancy in which sleeping space is rented to guests and in
17 which the landlord also resides is excluded from the
18 provisions of this section."

19 Section 7. Section 49-2-401, MCA, is amended to read:

20 "49-2-401. Procedure for claiming exemption. A person,
21 ~~educational institution, financial institution, or~~
22 ~~governmental entity or agency~~ who ~~or which~~ seeks to be
23 exempted from the requirements of part 3 of this chapter may
24 petition the commission for a declaratory ruling as provided
25 in 2-4-501 of the Montana Administrative Procedure Act. If

1 the commission finds that reasonable grounds for granting an
2 exemption exist, it may issue a ruling exempting the
3 petitioner from the particular provision. This section,
4 however, shall be strictly construed, and the burden ~~shall~~
5 ~~be is~~ on the petitioner to demonstrate that an exemption
6 should be granted."

7 Section 8. Section 49-2-501, MCA, is amended to read:

8 "49-2-501. Filing complaints. (1) A complaint may be
9 filed by or on behalf of any person claiming to be aggrieved
10 by any discriminatory practice prohibited by this chapter.
11 The complaint ~~shall~~ **must** be in the form of a written,
12 verified complaint stating the name and address of the
13 ~~person, educational institution, financial institution, or~~
14 ~~governmental entity or agency~~ alleged to have engaged in the
15 discriminatory practice and the particulars of the alleged
16 discriminatory practice. The commission staff may file a
17 complaint in like manner when a discriminatory practice
18 comes to its attention.

19 (2) A complaint under this chapter must be filed with
20 the commission within 180 days after the alleged unlawful
21 discriminatory practice occurred or was discovered. Any
22 complaint not filed within the time set forth herein may not
23 be considered by the commission."

24 Section 9. Section 49-2-505, MCA, is amended to read:

25 "49-2-505. Contested case hearing. (1) If the informal

efforts to eliminate the alleged discrimination are unsuccessful, the staff shall inform the commission of the failure and the commission shall cause written notice to be served, together with a copy of the complaint, requiring the person, ~~employer, business, corporation~~ educational institution, financial institution, or governmental entity or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission.

(2) The hearing ~~shall~~ must be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, ~~employer, business, corporation, organization, institution, entity, or agency, charged in the complaint~~ or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the staff, the complainant, or an attorney representing the complainant. The hearing and any subsequent proceedings under this chapter ~~except as permitted under 49-2-508, shall~~ must be held in accordance with the Montana Administrative Procedure Act ~~except as provided in 49-2-508.~~

(3) The commission may make provision provisions for defraying the expenses of ~~any~~ an indigent party in a contested ~~case~~ hearing held pursuant to this chapter."

Section 10. Section 49-2-506, MCA, is amended to read:

"49-2-506. Procedure upon a finding of discrimination.

(1) If the commission finds that a person, ~~institution, entity, or agency~~ against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, ~~it~~ the commission shall order him ~~or it~~ to refrain from engaging in the discriminatory conduct. The order may:

(a) prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found;

(b) require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against;

(c) require a report on the manner of compliance.

(2) The order may not require the payment of any punitive damages ~~as defined by the Montana Code Annotated.~~

(3) Whenever a commission order or conciliation agreement requires inspection by the commission staff for a period of time to determine if the respondent is complying with that order or agreement, the period of time ~~shall~~ may ~~not~~ be no more than 3 years."

Section 11. Section 49-2-507, MCA, is amended to read:

"49-2-507. Procedure upon failure to find discrimination. If the commission finds that a person, ~~institution, entity, or agency~~ against whom ~~or which~~ a complaint was filed has not engaged in the discriminatory

1 practice alleged in the complaint, it shall issue and cause
2 to be served on the complainant an order dismissing the
3 complaint."

4 Section 12. Section 49-2-601, MCA, is amended to read:

5 "49-2-601. Criminal penalty. A person, employer,
6 business, organization, corporation, or agency educational
7 institution, or financial institution, both either public
8 and or private, or a governmental entity or agency who or
9 which willfully engages in an unlawful discriminatory
10 practice prohibited by this chapter or willfully resists,
11 prevents, impedes, or interferes with the commission, the
12 department, or any of its authorized representatives in the
13 performance of a duty under this chapter or who or which
14 willfully violates an order of the commission or willfully
15 violates this chapter in any other manner is guilty of a
16 misdemeanor and is punishable by a fine of not more than
17 \$500 or by imprisonment for not more than 6 months, or
18 both."

19 Section 13. Section 49-3-101, MCA, is amended to read:

20 "49-3-101. Definitions. As used in this chapter, the
21 following definitions apply:

22 (1) "State and local governmental agencies" means:

23 (a) all branches, departments, offices, boards,
24 bureaus, commissions, agencies, university units, colleges,
25 or any and other instrumentality instrumentalities of state

1 government; and

2 (b) counties, cities, towns, school districts, or any
3 other instrumentality and other units of local government
4 and all instrumentalities of local government.

5 (2) "Qualifications" means such qualifications as are
6 genuinely related to competent performance of the particular
7 occupational task."

8 Section 14. Section 49-3-201, MCA, is amended to read:

9 "49-3-201. Employment of state and local government
10 personnel. (1) State and local government officials and
11 supervisory personnel shall recruit, appoint, assign, train,
12 evaluate, and promote personnel on the basis of merit and
13 qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin.

16 (2) All state and local governmental agencies shall:

17 (a) promulgate written directives to carry out this
18 policy and to guarantee equal employment opportunities at
19 all levels of state and local government;

20 (b) regularly review their personnel practices to
21 assure compliance; and

22 (c) conduct continuing orientation and training
23 programs with emphasis on human relations and fair
24 employment practices.

25 (3) The department of administration shall insure that

1 the entire examination process, including appraisal of
2 qualifications, is free from bias.

3 (4) Appointing authorities shall exercise care to
4 insure utilization of minority group persons."

5 Section 15. Section 49-3-203, MCA, is amended to read:

6 "49-3-203. Educational, counseling, and training
7 programs. All ~~education~~ educational, counseling, and
8 vocational guidance programs and all apprenticeship and
9 on-the-job training programs of state or ~~and~~ local
10 governmental agencies or in which state or ~~and~~ local
11 governmental agencies participate ~~shall~~ must be open to all
12 persons, who ~~shall~~ must be accepted on the basis of merit
13 and qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin. Such programs ~~shall~~
16 must be conducted to encourage the full development of the
17 interests, aptitudes, skills, and capacities of all students
18 and trainees, with special attention to the problems of
19 culturally deprived, educationally handicapped, or
20 economically disadvantaged persons. Expansion of training
21 opportunities under these programs ~~shall~~ must be encouraged
22 to involve larger numbers of participants from those
23 segments of the labor force ~~where in which~~ the need for
24 upgrading levels of skill is greatest."

25 Section 16. Section 49-3-204, MCA, is amended to read:

1 "49-3-204. Licensing. No state or local department,
2 board, or governmental agency may grant, deny, or revoke the
3 license or charter of a person on the grounds of race,
4 color, religion, creed, political ideas, sex, age, marital
5 status, physical or mental handicap, or national origin.
6 Each state ~~and~~ or local governmental agency shall take such
7 appropriate action in the exercise of its licensing or
8 regulatory power as will assure equal treatment of all
9 persons, eliminate discrimination, and enforce compliance
10 with the policy of this chapter."

11 Section 17. Section 49-3-205, MCA, is amended to read:

12 "49-3-205. Governmental services. (1) All services of
13 every state ~~and~~ or local governmental agency ~~shall~~ must be
14 performed without discrimination based upon race, color,
15 religion, creed, political ideas, sex, age, marital status,
16 physical or mental handicap, or national origin.

17 (2) No state or local facility may be used in the
18 furtherance of any discriminatory practice, nor may a state
19 or local governmental agency become a party to an agreement,
20 arrangement, or plan which has the effect of sanctioning
21 discriminatory practices.

22 (3) Each state ~~and~~ or local governmental agency shall
23 analyze all of its operations to ascertain possible
24 instances of noncompliance with the policy of this chapter
25 and shall initiate comprehensive programs to remedy any

1 defect found to exist."

2 Section 18. Section 49-3-207, MCA, is amended to read:

3 "49-3-207. Nondiscrimination provision in all public
4 contracts. Every state or local contract or subcontract for
5 construction of public buildings or for other public work or
6 for goods and ~~or~~ services shall contain a provision that all
7 hiring ~~shall~~ ~~must~~ be on the basis of merit and
8 qualifications and a provision that there may be no
9 discrimination on the basis of race, color, religion, creed,
10 political ideas, sex, age, marital status, physical or
11 mental handicap, or national origin by the persons
12 performing the contract."

13 Section 19. Section 49-3-208, MCA, is amended to read:

14 "49-3-208. Public accommodations laws. No state or
15 local ~~department, board, or governmental~~ agency ~~shall~~ ~~may~~
16 permit any violation of the public accommodations provisions
17 of 49-2-304."

18 Section 20. Section 49-3-301, MCA, is amended to read:

19 "49-3-301. Cooperation with commission for human
20 rights. All state and local governmental agencies shall
21 cooperate with the commission for human rights in the
22 commission's enforcement and educational programs. They
23 shall comply with the commission's ~~request~~ ~~requests~~ for
24 information concerning practices inconsistent with the state
25 policy against discrimination and shall consider its

1 recommendations for effectuating and implementing that
2 policy. The ~~commission for human rights~~ shall continue to
3 augment its enforcement and ~~education~~ educational programs
4 which seek to eliminate all discrimination."

5 Section 21. Section 49-3-302, MCA, is amended to read:

6 "49-3-302. Annual reports to governor. All
7 departments, ~~agencies, commissions, and other bodies of the~~
8 state government governmental agencies which report to the
9 governor shall include in their annual reports to the
10 governor activities undertaken in the past year to
11 effectuate this chapter. Such reports shall cover both
12 internal activities and external relations with the public
13 or with other state agencies and shall contain other
14 information as specifically requested by the governor."

15 Section 22. Section 49-4-211, MCA, is amended to read:

16 "49-4-211. Right to use public places and
17 accommodations. (1) The blind and the visually handicapped
18 have the same right as the able-bodied to the full and free
19 use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) The blind and the visually handicapped are
22 entitled to full and equal accommodations, advantages,
23 facilities, and privileges of all common carriers,
24 ~~airplanes, motor vehicles, railroad trains, motor buses,~~
25 ~~boats, or any other public conveyances or modes of~~

1 ~~transportation--hotels--lodging--places--places-of~~ as defined
2 in 49-11-101, and all public accommodations--amusement--or
3 ~~resort--and--other--places--to--which--the--general--public--is~~
4 ~~invited accommodations, as defined in 49-2-101,~~ subject only
5 to the conditions and limitations established by law and
6 applicable alike to all persons."

7 Section 23. Section 49-4-214, MCA, is amended to read:

8 "49-4-214. Right to be accompanied by a guide dog. (1)
9 Every totally or partially blind person ~~shall have~~ has the
10 right to be accompanied by a guide dog, especially trained
11 for the purpose, in any of the places ~~where--the--public--is~~
12 ~~invited--(hotels--motels--public-conveyances--public-eating~~
13 ~~places--and--places-of-amusement)~~ mentioned in 49-4-211(2)
14 without being charged extra for the guide dog. He ~~shall be~~
15 is liable for any damage done to the premises or facilities
16 by such dog.

17 (2) Every totally or partially blind person who has a
18 guide dog or who obtains a guide dog ~~shall be~~ is entitled to
19 full and equal access to all housing accommodations as
20 provided in 49-2-305 and 49-4-212. He ~~shall may~~ not be
21 required to pay extra compensation for ~~such the~~ guide dog
22 but ~~shall--be~~ is liable for any damage done to the premises
23 by ~~such-a the~~ guide dog."

24 Section 24. Section 49-4-216, MCA, is amended to read:

25 "49-4-216. Duty and civil liability of pedestrian or

1 driver approaching blind person. (1) ~~Any A~~ pedestrian who is
2 not ~~wholly~~ totally or partially blind or ~~any a~~ driver of a
3 vehicle who approaches or comes in contact with a person
4 ~~wholly who is totally~~ or partially blind ~~and is~~ carrying a
5 cane or walking stick predominately white or metallic in
6 color or white tipped with red or is being led by a trained
7 guide dog wearing a harness and walking on either side of or
8 slightly in front of ~~some such~~ blind person shall
9 immediately come to a full stop and take such precautions
10 before proceeding as may be necessary to avoid accident or
11 injury to the ~~such blind~~ person ~~wholly--or--partially--blind~~.

12 (2) Any ~~A~~ driver or pedestrian who fails to take such
13 precautions ~~shall--be~~ is liable in damages for any injury
14 caused ~~such--pedestrian the totally--or--partially--blind~~
15 ~~person~~. A totally or partially blind pedestrian ~~who is~~ not
16 carrying such a cane or using a guide dog in any of the
17 places--accommodations--or--conveyances listed in 49-4-211
18 ~~shall have~~ has all of the rights and privileges conferred by
19 law upon other persons, and the failure of ~~such a totally--or~~
20 ~~partially--blind~~ pedestrian to carry such a cane or to use a
21 guide dog in any such places--accommodations--or--conveyances
22 ~~shall place may~~ not be held to constitute or be evidence of
23 contributory negligence."

24 Section 25. Repealer. Section 64-104, R.C.M. 1947, is
25 repealed.